

## REMARKS

Claims 1-13 are pending in the application after entry of the foregoing amendments. Claims 14-17 have been withdrawn from consideration and subsequently cancelled. Claims 1-3 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ruger (DE 197 40 143). Claims 1-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lasier et al (U.S. 4,040,144). Claims 1-7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lan (U.S. 5,477,589). Applicants respectfully request consideration of the application in view of the foregoing amendments and following remarks.

### Amendments to the Claims

Claim 1 has been amended to more clearly define the invention. Support for this amendment may be found in the original claims and throughout the specification. No new matter has been presented through these amendments.

Claims 14-17 have been cancelled without prejudice to their reintroduction in a continuing application.

### Claims 1-3 - 35 U.S.C. § 102(b)

The rejection of claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by Ruger (DE 197 40 143) has been rendered moot by the foregoing amendments.

Ruger relates to a double telescopic pneumatic damper having an outer damping cylinder fitted with a hollow piston shaft which forms the cylinder of an inner pneumatic damper having a separate piston shaft and an inner piston. The piston of the outer damping cylinder forms the end stop of the inner cylinder, and the two dampers have separate gas springs whose relative pressures are inversely proportional to the relative cross-sectional areas of the two pistons. The effective combined operating stroke of the two pistons is greater than the compressed length of the two dampers.

The present invention, as embodied by amended claim 1, relates to a damping element with two cylinders and two pistons; however, the cylinders are arranged in a “front to back” fashion with the expansion chamber of the second damping element being

disposed entirely rearward from the compression chamber of the first damping element. Thus, the respective damping chambers are arranged in a serial fashion.

In contrast, Ruger discloses a telescopic arrangement wherein the first piston is hollow and acts as the cylinder for the second piston. The effect is a nested arrangement of chambers and pistons, with the inner piston being smaller than the outer piston. One advantage of the present invention is the relative equality in size between the two chambers which is only achievable with a front-to-back serial arrangement of the expansion and compression chambers.

Because each and every element as set forth in independent claim 1 is not found, either expressly or inherently in the cited reference, the Examiner has failed to establish the required *prima facie* case of unpatentability. See Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628 (Fed. Cir. 1987); See also MPEP §2131. The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claim 1 and similarly has failed to establish a *prima facie* case of unpatentability for claims 2 and 3 that depend on claim 1 and which recite further specific elements that have no reasonable correspondence with the reference.

For these reasons, claims 1-3 are not anticipated by Ruger and the Examiner is respectfully requested to withdraw the rejection.

**Claims 1-13 - 35 U.S.C. § 102(b)**

The rejection of claims 1-13 under 35 U.S.C. § 102(b) as being anticipated by Lasier et al. (U.S. 4,040,144) has been rendered moot by the foregoing amendments.

Lasier et al. relates to a door closer which has a cylinder in which a piston reciprocates to compress a spring. An assistor for such a closer has a cylindrical shell fastened to one end of and continuing the cylinder. The shell has a barrier wall at one end adjacent the cylinder, a partition wall dividing the shell into a booster compartment and a main compartment, and a head wall at the other end. Air under regulated pressure is supplied to the main compartment, wherein the air presses a main plunger tube, extending through the partition wall, against a booster plunger having a rod extending through the barrier wall and abutting the piston. Air under regulated pressure is supplied to the main plunger throughout the whole piston stroke and is supplied to the booster plunger during

only part of the piston stroke. The applied air pressure is regulated to be slightly less than an amount necessary to compress the spring and move the door unaided.

Thus, Lasier et al. provides a device which performs the opposite function of the device of the present invention. Not surprisingly, the device of Lasier et al. fails to anticipate the present invention as embodied by claim 1. The pistons in Lasier et al. are activated through a supply of compressed air, which is fed into the piston chambers from an outside source. This arrangement does not function and could not be used for the purposes of the present invention. The present invention, in contrast, requires at least a portion of the first piston to extend out from the compression chamber to engage a moveable member, such as a drawer, and provide pneumatic resistance thereto. Claim 1, as amended, requires the first piston extend outward from the first cylinder. Lasier et al. clearly relates to a piston/cylinder combination wherein the pistons are housed entirely within their respective cylinders and do not extend outward therefrom.

Because each and every element as set forth in independent claims 1 is not found, either expressly or inherently in the cited reference, the Examiner has failed to establish the required *prima facie* case of unpatentability. See Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628 (Fed. Cir. 1987); See also MPEP §2131. The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claim 1 and similarly has failed to establish a *prima facie* case of unpatentability for claims 2 - 13 that depend on claim 1 and which recite further specific elements that have no reasonable correspondence with the reference.

For these reasons, claims 1-13 are not anticipated by Lasier et al. and the Examiner is respectfully requested to withdraw the rejection.

**Claims 1-7 - 35 U.S.C. § 102(b)**

The rejection of claims 1-7 under 35 U.S.C. § 102(b) as being anticipated by Lan (U.S. 5,477,589) has been rendered moot by the foregoing amendments.

Lan relates to a multi-stage door closer for automatically closing a door after the door is opened. It contains a cylinder having three sections each with a different diameter. A pair of speed adjusting mechanisms are provided which are sleeved about a piston rod placed inside the cylinder. Each of the speed adjusting mechanism contains a

rotatable piston head, which will rotate with the cylinder, and a fixed piston head, which will not rotate with the cylinder. By cooperated actions among the variously-sized sections of the cylinder and the pair of speed adjusting mechanisms, each speed adjusting mechanism can be separately adjusted to control the door closing speed at various stages of the door closing action.

Similar to Lasier et al., Lan relates to a door closing mechanism for automatically closing a door after it is opened, rather than a mechanism to absorb impact and retard the speed of a moving object. The difference is substantial; Lan assists in door closing by providing a closing force to the door, whereas the present invention absorbs the closing force exerted by a drawer already in motion. Because of this difference Lan is designed differently than the present invention and fails to account for each and every element found in claim 1 of the present application.

More particularly, the expansion and compression chambers described in Lan are not fixed and arranged in a front-to-back serial fashion as is the present invention. Lan discloses one chamber having sections of varying diameter through which the two pistons move. Lan does not disclose distinct compression/expansion chambers for each cylinder. The pistons are arranged in a serial fashion, however, they share the one chamber. This arrangement would not serve the purposes of the present invention, and certainly does not disclose the two piston / two chamber arrangement described in claim 1.

Because each and every element as set forth in independent claims 1 is not found, either expressly or inherently in the cited reference, the Examiner has failed to establish the required *prima facie* case of unpatentability. See Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628 (Fed. Cir. 1987); See also MPEP §2131. The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claim 1 and similarly has failed to establish a *prima facie* case of unpatentability for claims 2 - 7 that depend on claim 1 and which recite further specific elements that have no reasonable correspondence with the reference.

For these reasons, claims 1-7 are not anticipated by Lan and the Examiner is respectfully requested to withdraw the rejection.

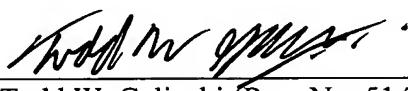
**Conclusion**

Applicants respectfully requests early consideration of the present application, entry of all amendments herein requested, and allowance of all pending claims.

The Examiner is respectfully invited to contact Todd W. Galinski at (336) 607-7448, to discuss any matter relating to this application.

Respectfully submitted,

Date: 10/20/04

  
\_\_\_\_\_  
Todd W. Galinski (Reg. No. 51,713)

KILPATRICK STOCKTON LLP  
1001 West Fourth Street  
Winston-Salem, NC 27101  
(336) 607-7300